

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
DEBRA LYNN MERCER-ERWIN (1)  
KAYLEIGH MOFFETT (2),  
Defendants.

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No. 4:20-CR-212

**MOTION TO CONTINUE TRIAL  
AND RESET PRETRIAL DEADLINES**

The defendants, Debra Lynn Mercer-Erwin (“Mercer”) through her attorneys of record, John W. Coyle and Rafael De La Garza II, and Kayleigh Moffett (“Moffett”) through her attorney of record, Vicki Zemp Behenna, moves this Court, pursuant to Rule 47 of the Local Rules for the Eastern District of Texas, for an order continuing the trial in this matter to a date certain in the late summer or fall of 2022, and to reset all pretrial deadlines. In support of this motion, the defendants, Mercer and Moffett submit the following:

1. The defendants were charged together with eight co-defendants, in a multi-count Second Superseding Indictment on December 16, 2020. (Doc. 101). Since then, the government has obtained a number of Superseding Indictments. The defendants are charged with: 1) conspiracy to manufacture and distribute cocaine, in violation of 21 U.S.C. §846; 2) conspiracy to manufacture and distribute cocaine intending, knowing, and with reasonable cause to believe that the cocaine will be unlawfully imported into the United States, in violation of 21 U.S.C. §963; 3) manufacturing and distributing five kilograms or more of cocaine intending, knowing, and with reasonable cause to believe

that the cocaine will be unlawfully imported into the United States, in violation of 21 U.S.C. §959; 4) conspiracy to commit money laundering, in violation of 18 U.S.C. §1956(h); 5) conspiracy to commit export violations, in violation of 18 U.S.C. §371; 6) conspiracy to commit registration violations involving aircraft not providing air transportation, in violation of 49 U.S.C. §46306; and 7) conspiracy to commit wire fraud, in violation of 18 U.S.C. §1349.

2. The defendants, Mercer and Moffett, were arrested on the Second Superseding Indictment on December 21, 2020 and released on bond.

3. The allegations contained in the Superseding Indictments set forth alleged schemes to: manufacture and distribute drugs, conspire to commit money laundering and wire fraud, and to fraudulently register foreign airplanes in the United States for the purpose of transporting drugs which date back to 2010 and involve numerous individuals and/or entities located in at least ten different countries. Accordingly, on February 2, 2021, the Court designated this case complex, noting the significant amount of time needed for discovery in the case, and reset the final pretrial hearing for all defendants to March 4, 2022. (Doc. 142).

4. On February 2, 2021, the Court entered a Pretrial Order as to all defendants setting certain deadlines for pretrial motions, including motions to continue the trial. (Doc. 143). The deadline for filing motions to continue is February 11, 2022.

5. On May 5, 2021, the Grand Jury returned a Fifth Superseding Indictment against the defendants. (Doc. 224). On May 17, 2002 the Defendants, Mercer and Moffett, filed a waiver of their personal appearance at the arraignment and entered pleas of not

guilty. (Docs. 241, 244). Out of the eight co-defendants named in the Superseding Indictment, only four defendants have been arraigned.<sup>1</sup>

6. Counsel for Ms. Moffett has a trial that is scheduled to begin on February 28, 2022 in the Western District of Oklahoma. The case, *United States v. Keogh*, Case No. CR-17-290-D has been rescheduled multiple times as a result of COVID and due to scheduling conflicts involving the co-defendant's trial counsel. It is anticipated that the *Keogh* case will take two to three weeks to try. Additionally, counsel for the defendants, Mercer and Moffett, have requested copies of unredacted reports and witness statements from the government who has agreed to produce the requested discovery, but which has not yet been received by counsel. This discovery is necessary for counsel to properly prepare for a trial in this matter.

7. Counsel for the defendants, Mercer and Moffett, have contacted the Assistant United States Attorney, Ernest Gonzalez, who does not oppose this motion to continue the trial and reset pretrial deadlines. Counsel has contacted counsel for Mr. Carlos Rocha Villaurrutia who does object to this continuance.

8. Counsel for the defendants Mercer and Moffett request a conference call with the Court to determine a suitable trial date for the parties taking into consideration the Court's availability.

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<sup>1</sup> Mr. Michael Assad Marcos has since died. Mr. Federico Andres Machado is awaiting extradition, no order has been entered severing the defendants, and it unclear whether Mr. Machado is even represented by counsel at this time.

9. For the foregoing reasons, the defendants, Mercer and Moffett, respectfully request the Court enter an order continuing the trial for a date certain in late summer or fall of 2022, and to reset all pretrial deadlines.

Respectfully submitted,

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*Attorney for Defendant, Kayleigh Moffett*

**CERTIFICATE OF SERVICE**

I hereby certify that on 11<sup>th</sup> day of September, 2022, I electronically transmitted the foregoing document to the Clerk of Court using the ECF system for filing and transmittal of Notice of Electronic Filing, which will automatically send e-mail notification of such filing to all attorneys of record.

/s/ Vicki Zemp Behenna  
Vicki Zemp Behenna